Department of Labor and Industry

Proposed Permanent Rules Relating to Workers' Compensation; Treatment Parameters

5221.6040 DEFINITIONS.

[For text of subps 1 to 8, see M.R.]

Subp. 8a. **Medical contraindication.** "Medical contraindication" means a condition that makes the use of a particular treatment or medication inadvisable because of an increased risk of harm to the patient.

[For text of subps 9 to 13, see M.R.]

5221.6050 GENERAL TREATMENT PARAMETERS; EXCESSIVE TREATMENT; PRIOR NOTIFICATION.

Subpart 1. **General.**

[For text of item A, see M.R.]

B. The health care provider must evaluate at each visit whether initial nonsurgical treatment for the low back, cervical, thoracic, ~~and~~ upper extremity, complex regional pain syndrome, reflex sympathetic dystrophy, causalgia, and cognate conditions specified in parts 5221.6200, 5221.6205, 5221.6210, ~~and~~ 5221.6300, and 5221.6305, is effective according to subitems (1) to (3). No later than any applicable treatment response time in parts 5221.6200 to ~~5221.6300~~ 5221.6305, the health care provider must evaluate whether the passive, active, injection, or medication treatment modality is resulting in progressive improvement as specified in subitems (1) to (3):

[For text of subitems (1) to (3), see M.R.]

[For text of item C, see M.R.]

[For text of subps 2 to 8, see M.R.]

Subp. 9. **Prior notification; health care provider and insurer responsibilities.** Prior notification is the responsibility of the health care provider who wants to provide the treatment in item A. Prior notification need not be given in any case where emergency treatment is required.

[For text of items A and B, see M.R.]

C. The insurer must provide a toll-free facsimile and telephone number for health care providers to provide prior notification. The insurer must respond orally or in writing to the requesting health care provider's prior notification of proposed treatment in item A within seven working days of receipt of the request. Within the seven days, the insurer must either approve the request, deny authorization, request additional information, request that the employee obtain a second opinion, or request an examination by the employer's physician. A denial must include notice to the employee and health care provider of the reason why the information given by the health care provider in item B does not support the treatment proposed, along with notice of the right to review of the denial under subitem (3).

[For text of subitems (1) to (4), see M.R.]

(5) If prior notification of surgery is required under item A, subitem (3), the insurer may require that the employee obtain a second opinion from a physician of the employee's choice under Minnesota Statutes, section 176.135, subdivision 1a. If within seven working days of the prior notification the insurer notifies the employee and health care provider that a second opinion is required, the health care provider may not perform the nonemergency surgery until the employee provides the second opinion to the insurer. Except as otherwise provided in parts 5221.6200, subpart 6, items B and C; 5221.6205, subpart 6, items B and C; 5221.6210, subpart 6, items B and C; 5221.6300, subpart 6, item B; and 5221.6305, subpart 3, item B, if the insurer denies authorization within seven working days of receiving the second opinion, the health care provider may elect to

perform the surgery, subject to a determination of compensability by the commissioner or compensation judge under subpart 7.

[For text of subitems (6) and (7), see M.R.]

[For text of subps 10 and 11, see M.R.]

5221.6100 PARAMETERS FOR MEDICAL IMAGING.

[For text of subp 1, see M.R.]

Subp. 2. **Specific imaging procedures for low back pain.** Except for the emergency evaluation of significant trauma, a health care provider must document in the medical record an appropriate history and physical examination, along with a review of any existing medical records and laboratory or imaging studies regarding the patient's condition, before ordering any imaging study of the low back.

[For text of item A, see M.R.]

B. Magnetic resonance imaging (MRI) scanning is indicated any time that one of the following conditions is met:

(1) when cauda equina syndrome is suspected;

(2) for evaluation of progressive neurologic deficit;

(3) when previous ~~spinal~~ surgery to the lumbar spine has been performed and there is a need to differentiate scar due to previous surgery from disc herniation, tumor, or hemorrhage; or

(4) suspected discitis.

Except as specified in subitems (1) to (4), MRI scanning is not indicated in the first eight weeks after an injury.

Magnetic resonance imaging scanning is indicated after eight weeks if the patient continues with symptoms and physical findings after the course of initial nonsurgical care

and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities.

C. Myelography is indicated in the following circumstances:

(1) may be substituted for otherwise indicated CT scanning or MRI scanning in accordance with items A and B, if those imaging modalities are not locally available;

(2) in addition to CT scanning or MRI scanning, if there ~~are~~ is progressive neurologic ~~deficits or changes~~ deficit and CT scanning or MRI scanning has been negative; or

(3) for preoperative evaluation in cases of surgical intervention, but only if CT scanning or MRI scanning have failed to provide a definite preoperative diagnosis.

D. Computed tomography myelography is indicated in the following circumstances:

(1) the patient's condition is predominantly sciatica, and there has been previous ~~spinal~~ surgery to the lumbar spine, and tumor is suspected;

(2) the patient's condition is predominantly sciatica and there has been previous ~~spinal~~ surgery to the lumbar spine and MRI scanning is equivocal;

(3) when spinal stenosis is suspected and the CT or MRI scanning is equivocal;

(4) in addition to CT scanning or MRI scanning, if there ~~are~~ is progressive neurologic ~~symptoms or changes~~ deficit and CT scanning or MRI scanning has been negative; or

(5) for preoperative evaluation in cases of surgical intervention, but only if CT scanning or MRI scanning have failed to provide a definite preoperative diagnosis.

E. Intravenous enhanced CT scanning is indicated only if there has been previous ~~spinal~~ surgery to the lumbar spine, and the imaging study is being used to differentiate scar due to previous surgery from disc herniation or tumor, but only if intrathecal contrast for CT-myelography is contraindicated and MRI scanning is not available or is also contraindicated.

F. Gadolinium enhanced MRI scanning is indicated when:

(1) there has been previous ~~spinal~~ surgery to the lumbar spine, and the imaging study is being used to differentiate scar due to previous surgery from disc herniation or tumor;

(2) hemorrhage is suspected;

(3) tumor or vascular malformation is suspected;

(4) infection or inflammatory disease is suspected; or

(5) unenhanced MRI scanning was equivocal.

G. Discography is indicated when:

[For text of subitem (1), see M.R.]

(2) there has been previous ~~spinal~~ surgery to the lumbar spine, and pseudoarthrosis, recurrent disc herniation, annular tear, or internal disc disruption is suspected.

[For text of items H to M, see M.R.]

5221.6105 MEDICATIONS.

Subpart 1. **Scope.** Subparts 2 to 4 apply to use of medication in an outpatient setting. Subparts 2 to 4 do not require a physician to prescribe any class of drugs in the treatment of any patient.

Subp. 2. **Nonsteroidal anti-inflammatory drugs (NSAID's).** Nonsteroidal anti-inflammatory drugs (NSAID's) are drugs with analgesic, antipyretic, and anti-inflammatory effects. The term "nonsteroidal" is used to distinguish these drugs from steroids. NSAID's act as inhibitors of the enzyme cyclooxygenase. For the purposes of this subpart, NSAID's include diflunisal but not other salicylates or acetaminophen. NSAID's can be divided into two groups, nonselective NSAID's and COX-2 inhibitors. Examples of nonselective NSAID's include diclofenac, diflunisal, etodolac, fenoprofen, flurbiprofen, ibuprofen, indomethacin, ketoprofen, ketorolac, meclofenamate, mefenamic acid, meloxicam, nabumetone, naproxen, oxaprozin, piroxicam, sulindac, and tolmetin. An example of a COX-2 inhibitor is celecoxib.

A. NSAID's are indicated for the symptomatic relief of acute and chronic musculoskeletal pain. NSAID's must be prescribed at the lowest clinically effective dose, as determined by the prescribing health care provider, but not to exceed the manufacturer's maximum daily dosage.

B. When treating musculoskeletal pain, a generic nonselective NSAID is indicated unless a COX-2 inhibitor is indicated as specified in item C.

(1) When a nonselective NSAID is used, treatment must begin with generic ibuprofen or generic naproxen. If there is a medical contraindication documented by the prescribing health care provider to each of the medications in this item, then treatment may begin with any other generic nonselective NSAID.

(2) Other generic nonselective NSAID's are not indicated unless one-week trials of each of ibuprofen and naproxen have been ineffective in reducing the patient's pain by at least 50 percent as determined by the prescribing health care provider.

(3) Nonselective NSAID's that are not available as generics are not indicated.

C. A COX-2 inhibitor may be indicated instead of a nonselective NSAID for:

(1) patients over 60 years of age;

(2) patients with a history of gastrointestinal bleeding or peptic ulcer disease; or

(3) patients with a history of gastrointestinal side effects with nonselective NSAID use.

However, for any patient meeting any of the criteria of subitems (1) to (3) who is taking aspirin or who is at an increased risk of cardiovascular disease, a COX-2 inhibitor is not indicated and a nonselective NSAID is indicated as allowed in items A and B, together with gastroprotective medication.

D. NSAID's are indicated only for the shortest duration needed as determined by the prescribing health care provider.

(1) NSAID's prescribed within the first four weeks after the date of injury are limited to no more than two weeks of medication per prescription or refill.

(2) NSAID's prescribed more than four weeks after the date of injury may not be for more than one month of medication per prescription or refill.

(3) NSAID's prescribed more than 12 months after the date of injury may not be for more than three months of medication per prescription or refill.

Subp. 3. **Opioid analgesics.** An opioid is any agent that binds to opioid receptors. There are three broad classes of opioids: opium alkaloids, such as morphine and codeine; semisynthetic opioids such as heroin and oxycodone; and fully synthetic opioids such as pethidine and methadone. Opioid analgesics include codeine, hydrocodone, levorphanol, methadone, morphine, hydromorphone, and oxycodone.

A. Opioid analgesics are indicated for the symptomatic relief of acute and chronic pain that has been inadequately relieved by nonopioid medications. Opioid

analgesics must be prescribed at the lowest clinically effective dose, as determined by the prescribing health care provider.

B. When treating pain, a generic oral opioid analgesic is indicated.

(1) When an oral opioid analgesic is used for the symptomatic relief of acute or chronic pain, treatment must begin with one of the following: generic codeine, generic hydrocodone, generic oxycodone, or generic morphine, unless there is a medical contraindication documented by the prescribing health care provider. If there is a medical contraindication documented by the prescribing health care provider to each of the medications in this item, then treatment may begin with any other generic oral opioid analgesic.

(2) Other generic opioid analgesics are not indicated for oral use for the symptomatic relief of acute or chronic pain unless one-week trials of each of hydrocodone, oxycodone, and morphine have been ineffective in reducing the patient's pain by at least 50 percent as determined by the prescribing health care provider.

(3) Generically available combinations of an oral opioid and a nonopioid analgesic may be prescribed instead of that opioid analgesic as otherwise allowed under subitems (1) and (2).

(4) Oral opioid analgesics that are not available as generics and combinations of an oral opioid analgesic and a nonopioid analgesic that are not available as generics are not indicated.

C. A course of oral opioid analgesics or combination of an oral opioid and a nonopioid analgesic is limited as provided in subitems (1) to (3).

(1) Oral opioid analgesics prescribed within the first four weeks after the date of injury are limited to no more than two weeks of medication per prescription.

(2) Oral opioid analgesics prescribed more than four weeks after the date of injury may not be for more than one month of medication per prescription.

(3) Oral opioid analgesics prescribed more than 12 weeks after the injury may be for more than one month of medication per prescription if there has been a clinical evaluation to confirm the need for an efficacy of the prescription and a clinical evaluation at least every six months thereafter during continued use of opiate analgesics.

D. Meperidine is not indicated in the treatment of acute or chronic pain.

E. Transcutaneous opioid analgesics are only indicated in patients with a documented disorder that prevents adequate oral dosing.

F. Oral transmucosal and buccal preparations are only indicated for the treatment of breakthrough pain and only in patients with a documented disorder that prevents adequate dosing with swallowed medications.

Subp. 4. **Muscle relaxants.** A muscle relaxant is a drug which decreases the tone of a muscle. For the purposes of this subpart, muscle relaxants include carisoprodol, chlorzoxazone, cyclobenzaprine, metaxalone, methocarbamol, orphenadrine, and tizanide. This subpart does not limit the use of medications that may be used to treat spasticity.

A. Muscle relaxants are indicated for the symptomatic relief of acute and chronic musculoskeletal pain. Muscle relaxants must be prescribed at the lowest clinically effective dose, as determined by the prescribing health care provider, but not to exceed the manufacturer's maximum daily dosage.

B. When treating musculoskeletal pain, a generic muscle relaxant is indicated.

(1) When a muscle relaxant is used, treatment must begin with one of the following: generic carisoprodol, generic chlorzoxazone, generic cyclobenzaprine, generic methocarbamol, or generic tizanide. If there is a medical contraindication documented by

the prescribing health care provider to each of the medications in this item, then treatment may begin with any other generic muscle relaxant.

(2) Metaxolone and orphenadrine are not indicated unless one-week trials of each of carisoprodol, chlorzoxazone, cyclobenzaprine, methocarbamol, and tizanide have been ineffective in reducing the patient's pain by at least 50 percent as determined by the prescribing health care provider.

(3) Generically available combinations of a muscle relaxant and an analgesic may be prescribed instead of that muscle relaxant as otherwise allowed under subitems (1) and (2).

(4) Muscle relaxants that are not available as generics, and combinations of a muscle relaxant and an analgesic that are not available as generics, are not indicated.

C. A course of muscle relaxants or combination of a muscle relaxant and an analgesic is limited as provided in subitems (1) to (3).

(1) Muscle relaxants prescribed within the first four weeks after the date of injury are limited to no more than two weeks of medication per prescription or refill.

(2) Muscle relaxants prescribed more than four weeks after the date of injury are limited to no more than one month's worth of medication per prescription or refill.

(3) Treatment with muscle relaxants for more than three consecutive months is not indicated.

D. Benzodiazepines are not indicated as muscle relaxants for the symptomatic relief of acute and chronic musculoskeletal pain.

5221.6200 LOW BACK PAIN.

Subpart 1. **Diagnostic procedures for treatment of low back injury.** A health care provider shall determine the nature of the condition before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must assign the patient at each visit to the appropriate clinical category according to subitems (1) to (4). The diagnosis must be documented in the medical record. For the purposes of subitems (2) and (3), "radicular pain" means pain radiating distal to the knee, or pain conforming to a dermatomal distribution and accompanied by anatomically congruent motor weakness or reflex changes. This part does not apply to fractures of the lumbar spine, or back pain due to an infectious, immunologic, metabolic, endocrine, neurologic, visceral, or neoplastic disease process.

(1) Regional low back pain, includes referred pain to the leg above the knee unless it conforms to an L2, L3, or L4 dermatomal distribution and is accompanied by anatomically congruent motor weakness or reflex changes. Regional low back pain includes the diagnoses of lumbar, lumbosacral, or sacroiliac: strain, sprain, myofascial syndrome, musculoligamentous injury, soft tissue injury, spondylosis, and other diagnoses for pain believed to originate in the discs, ligaments, muscles, or other soft tissues of the lumbar spine or sacroiliac joints and which effects the lumbosacral region, with or without referral to the buttocks and/or leg above the knee, including, but not limited to, ICD-9-CM codes 720 to 720.9, 721, 721.3, 721.5 to 721.90, 722, 722.3, 722.32, 722.5, 722.51, 722.52, 722.6, 722.8, 722.80, 722.83, 722.9, 722.90, 722.93, 724.2, 724.5, 724.6, 724.8, 724.9, 732.0, 737 to 737.9, 738.4, 738.5, 739.2 to 739.4, 756.1 to 756.19, 846.0, 847.2 to 847.9, 922.3, 922.31, 926.1, 926.11, and 926.12.

(2) Radicular pain, with or without regional low back pain, with static or no neurologic deficit. This includes the diagnoses of sciatica; lumbar or lumbosacral radiculopathy, radiculitis or neuritis; displacement or herniation of intervertebral disc with myelopathy, radiculopathy, radiculitis or neuritis; spinal stenosis with myelopathy, radiculopathy, radiculitis or neuritis; and any other diagnoses for pain in the leg below the knee believed to originate with irritation of a nerve root in the lumbar spine, including, but

not limited to, the ICD-9-CM codes 721.4, 721.42, 721.91, 722.1, 722.10, 722.11, 722.2, 722.7, 722.73, 722.8, 722.80, 722.83, 724.0, 724.00, 724.02, 724.09, 724.3, 724.4, and 724.9. In these cases, neurologic findings on history and physical examination are either absent or do not show progressive deterioration.

(3) Radicular pain, with or without regional low back pain, with progressive neurologic deficit. This includes the same diagnoses as subitem (2), however, this category applies when there is a history of progressive deterioration in the neurologic symptoms and physical findings which include worsening sensory loss, increasing muscle weakness, or progressive reflex changes.

(4) Cauda equina syndrome, which is a syndrome characterized by anesthesia in the buttocks, genitalia, or thigh and accompanied by disturbed bowel and bladder function, ICD-9-CM codes 344.6, 344.60, and 344.61.

[For text of items B to H, see M.R.]

I. A comprehensive functional capacity assessment or evaluation (FCE) is ~~a comprehensive and objective assessment of a patient's ability to perform work tasks~~ an individualized examination and evaluation that objectively measures the patient's current level of function and the ability to perform functional or work-related tasks, and it predicts the potential to sustain these tasks over a defined time frame. The components of a ~~functional capacity assessment or evaluation~~ comprehensive FCE include, but are not limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. ~~A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the requested information. Functional capacity assessments and evaluations are performed to determine and report a patient's physical capacities in general or to determine work tolerance for a specific job, task, or work activity.~~

(1) ~~Functional capacity assessment or evaluation~~ A comprehensive FCE is not indicated during the period of initial nonsurgical management.

(2) After the period of initial nonsurgical management ~~functional capacity assessment or evaluation~~, a comprehensive FCE is indicated in either of the following circumstances:

(a) permanent activity restrictions and capabilities must be identified; or

(b) there is a question about the patient's ability to do a specific job.

(3) A ~~functional capacity evaluation~~ comprehensive FCE is not ~~appropriate~~ indicated to establish baseline performance before treatment~~,~~ or ~~for subsequent assessments,~~ to evaluate change in performance during ~~or after~~ a course of treatment.

(4) Only one completed ~~functional capacity evaluation~~ comprehensive FCE is indicated per injury.

(5) Functional tests or physical performance tests done as part of a work conditioning program or work hardening program as provided in part 5221.6600, subpart 2, item D, or in conjunction with active treatment modalities as provided in subpart 4, are not a comprehensive FCE and are not limited by this item.

[For text of item J, see M.R.]

[For text of subp 2, see M.R.]

Subp. 3. **Passive treatment modalities.**

[For text of items A to D, see M.R.]

E. Electrical muscle stimulation includes muscle stimulation, low-volt therapy, sine wave therapy, stimulation of peripheral nerve, galvanic stimulation, TENS, interferential, and microcurrent techniques.

[For text of subitems (1) and (2), see M.R.]

F. Mechanical traction~~:~~ is the therapeutic use of mechanically induced tension created by a pulling force to produce a combination of distraction and gliding to relieve pain and increase flexibility. Mechanical traction may be continuous, static, intermittent, inversion, gravity, or positional. Examples of mechanical traction include power traction, intersegmental motorized mobilization, vertebral axial decompression, autotraction (active), and 90/90.

[For text of subitems (1) and (2), see M.R.]

G. Acupuncture treatments~~. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure~~:

[For text of subitems (1) to (3), see M.R.]

H. Manual therapy includes ~~soft tissue and joint mobilization, therapeutic massage, and~~ manual traction, myofascial release, joint mobilization and manipulation, manual lymphatic drainage, soft-tissue mobilization and manipulation, trigger point therapy, acupressure, muscle stimulation - manual (nonelectrical), and any form of massage:

[For text of subitems (1) to (3), see M.R.]

[For text of items I to K, see M.R.]

[For text of subps 4 to 7, see M.R.]

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only in the situations specified in items A to D. The health care provider must provide prior notification as required in items B and C according to part 5221.6050, subpart 9.

[For text of items A to C, see M.R.]

D. The following durable medical equipment is not indicated for home use for any of the low back conditions described in subpart 1, item A:

[For text of subitems (1) and (2), see M.R.]

[For text of subp 9, see M.R.]

Subp. 10. **Scheduled and nonscheduled medication.** ~~Prescription of controlled substance medications scheduled under Minnesota Statutes, section 152.02, including without limitation, narcotics, is indicated only for the treatment of severe acute pain. These medications are not indicated in the treatment of patients with regional low back pain after the first two weeks.~~

~~Patients with radicular pain may require longer periods of treatment.~~

The health care provider must document the rationale for the use of any ~~scheduled~~ medication. Treatment with ~~nonscheduled~~ medication may be appropriate during any phase of treatment and ~~intermittently after all other treatment has been discontinued~~ must comply with all of the applicable parameters in part 5221.6105. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and that the most cost-effective regimen is used.

[For text of subps 11 to 13, see M.R.]

5221.6205 NECK PAIN.

Subpart 1. **Diagnostic procedures for treatment of neck injury.** A health care provider shall determine the nature of the condition before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must assign the patient at each visit to the appropriate clinical category according to subitems (1) to (4). The diagnosis must be documented in the medical record. For the purposes of subitems (2) and (3), "radicular pain" means pain radiating distal to the shoulder. This part does not apply to fractures of the cervical spine or cervical pain due to an infectious, immunologic, metabolic, endocrine, neurologic, visceral, or neoplastic disease process.

(1) Regional neck pain includes referred pain to the shoulder and upper back. Regional neck pain includes the diagnoses of cervical strain, sprain, myofascial syndrome, musculoligamentous injury, soft tissue injury, and other diagnoses for pain believed to originate in the discs, ligaments, muscles, or other soft tissues of the cervical spine and which affects the cervical region, with or without referral to the upper back or shoulder, including, but not limited to, ICD-9-CM codes 720 to 720.9, 721 to 721.0, 721.5 to 721.90, 722.0, 722.2, 722.3 to 722.30, 722.39, 722.4, 722.6, 722.8, 722.80, 722.81, 722.9 to 722.91, 723 to 723.3, 723.5 to 723.9, 724.5, 724.8, 724.9, 732.0, 737 to 737.9, 738.2, 738.4, 738.5, 739.1, 756.1 to 756.19, 847 to 847.0, 847.9, 920, 922.3, 925, and 926.1 to ~~926.12~~ 926.11.

(2) Radicular pain, with or without regional neck pain, with no or static neurologic deficit. This includes the diagnoses of brachialgia; cervical radiculopathy, radiculitis, or neuritis; displacement or herniation of intervertebral disc with radiculopathy, radiculitis, or neuritis; spinal stenosis with radiculopathy, radiculitis, or neuritis; and other diagnoses for pain in the arm distal to the shoulder believed to originate with irritation of a nerve root in the cervical spine, including, but not limited to, the ICD-9-CM codes 721.1, 721.91, 722 to 722.0, 722.2, 722.7 to 722.71, 722.8, 722.80, 722.81, 723.4, ~~and~~ 724 ~~to 724.00~~, and 724.9. In these cases neurologic findings on history and examination are either absent or do not show progressive deterioration.

(3) Radicular pain, with or without regional neck pain, with progressive neurologic deficit, which includes the same diagnoses as subitem (2); however, in these cases there is a history of progressive deterioration in the neurologic symptoms and physical findings, including worsening sensory loss, increasing muscle weakness, and progressive reflex changes.

(4) Cervical compressive myelopathy, with or without radicular pain, is a condition characterized by weakness and spasticity in one or both legs and associated

with any of the following: exaggerated reflexes, an extensor plantar response, bowel or bladder dysfunction, sensory ataxia, or bilateral sensory changes. Cervical compressive myelopathy includes the ICD-9-CM code 336.9.

[For text of items B to H, see M.R.]

I. A comprehensive functional capacity assessment or evaluation (FCE) is ~~a comprehensive and objective assessment of a patient's ability to perform work tasks~~ an individualized examination and evaluation that objectively measures the patient's current level of function and the ability to perform functional or work-related tasks, and it predicts the potential to sustain these tasks over a defined time frame. The components of a ~~functional capacity assessment or evaluation~~ comprehensive FCE include, but are not ~~necessarily~~ limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. ~~A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the requested information. Functional capacity assessments and evaluations are performed to determine a patient's physical capacities in general or to determine and report work tolerance for a specific job, task, or work activity.~~

(1) ~~Functional capacity assessment or evaluation~~ A comprehensive FCE is not ~~reimbursable~~ indicated during the period of initial ~~nonoperative care~~ nonsurgical management.

(2) ~~Functional capacity assessment or evaluation~~ After the period of initial nonsurgical management, a comprehensive FCE is ~~reimbursable~~ indicated in either of the following circumstances:

(a) permanent activity restrictions and capabilities must be identified; or

(b) there is a question about the patient's ability to do a specific job.

(3) A comprehensive FCE is not indicated to establish baseline performance before treatment or to evaluate change in performance during a course of treatment.

(4) Only one completed comprehensive FCE is indicated per injury.

(5) Functional tests or physical performance tests done as part of a work conditioning program or work hardening program as provided in part 5221.6600, subpart 2, item D, or in conjunction with active treatment modalities as provided in subpart 4, are not a comprehensive FCE and are not limited by this item.

[For text of item J, see M.R.]

[For text of subp 2, see M.R.]

Subp. 3. **Passive treatment modalities.**

[For text of items A and D, see M.R.]

E. Electrical muscle stimulation includes muscle stimulation, low-volt therapy, sine wave therapy, stimulation of peripheral nerve, galvanic stimulation, TENS, interferential, and microcurrent techniques.

[For text of subitems (1) and (2), see M.R.]

F. Mechanical traction: is the therapeutic use of mechanically induced tension created by a pulling force to produce a combination of distraction and gliding to relieve pain and increase flexibility. Mechanical traction may be continuous, static, intermittent, inversion, gravity, or positional. Examples of mechanical traction include power traction, intersegmental motorized mobilization, vertebral axial decompression, autotraction (active), and 90/90.

[For text of subitems (1) and (2), see M.R.]

G. Acupuncture treatments~~. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure~~:

[For text of subitems (1) to (3), see M.R.]

H. Manual therapy includes ~~soft tissue and joint mobilization, therapeutic massage, and~~ manual traction, myofascial release, joint mobilization and manipulation, manual lymphatic drainage, soft-tissue mobilization and manipulation, trigger point therapy, acupressure, muscle stimulation - manual (nonelectrical), and any form of massage:

[For text of subitems (1) to (3), see M.R.]

[For text of items I to K, see M.R.]

[For text of subps 4 to 7, see M.R.]

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only as specified in items A to D. The health care provider must provide prior notification as required in items B and C according to part 5221.6050, subpart 9.

[For text of items A to C, see M.R.]

D. The following durable medical equipment is not indicated for home use for any of the neck pain conditions described in subpart 1, item A:

[For text of subitems (1) and (2), see M.R.]

[For text of subp 9, see M.R.]

Subp. 10. **Scheduled and nonscheduled medication.** ~~Prescription of controlled substance medications scheduled under Minnesota Statutes, section 152.02, including, without limitation, narcotics, is indicated only for the treatment of severe acute pain. These medications are not indicated in the treatment of patients with regional neck pain after the first two weeks.~~

~~Patients with radicular pain may require longer periods of treatment.~~

The health care provider must document the rationale for the use of any ~~scheduled~~ medication. Treatment with ~~nonnarcotic~~ medication may be appropriate during any phase

of treatment and ~~intermittently after all other treatment has been discontinued~~ must comply with all of the applicable parameters in part 5221.6105. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and the most cost-effective regimen is used.

[For text of subps 11 to 14, see M.R.]

5221.6210 THORACIC BACK PAIN.

Subpart 1. **Diagnostic procedures for treatment of thoracic back injury.** A health care provider shall determine the nature of the condition before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must assign the patient at each visit to the consistency appropriate clinical category according to subitems (1) to (4). The diagnosis must be documented in the medical record. For the purposes of subitems (2) and (3), "radicular pain" means pain radiating in a dermatomal distribution around the chest or abdomen. This part does not apply to fractures of the thoracic spine or thoracic back pain due to an infectious, immunologic, metabolic, endocrine, neurologic, visceral, or neoplastic disease process.

(1) Regional thoracic back pain includes the diagnoses of thoracic strain, sprain, myofascial syndrome, musculoligamentous injury, soft tissue injury, and any other diagnosis for pain believed to originate in the discs, ligaments, muscles, or other soft tissues of the thoracic spine and which effects the thoracic region, including, but not limited to, ICD-9-CM codes 720 to 720.9, 721 to 721.0, 721.5 to 721.90, 722.3 to 722.30, 722.4, 722.6, 722.9 to 722.91, 723 to 723.3, 723.5 to 723.9, 724.5, 724.8, 724.9, 732.0, 737 to 737.9, 738.4, 738.5, 739.1, 756.1 to 756.19, 847 to 847.0, 920, 922.3, 925, and 926.1 to 926.12.

(2) Radicular pain, with or without regional thoracic back pain, includes the diagnoses of thoracic radiculopathy, radiculitis, or neuritis; displacement or herniation

of intervertebral disc with radiculopathy, radiculitis, or neuritis; spinal stenosis with radiculopathy, radiculitis, or neuritis; and any other diagnoses for pain believed to originate with irritation of a nerve root in the thoracic spine, including, but not limited to, the ICD-9-CM codes 721.1, 721.91, 722 to 722.0, 722.2, 722.7 to 722.71, 723.4, and 724 to 724.00.

(3) Thoracic compressive myelopathy, with or without radicular pain, is a condition characterized by weakness and spasticity in one or both legs and associated with any of the following: exaggerated reflexes, an extensor plantar response, bowel or bladder dysfunction, sensory ataxia, or bilateral sensory changes. Thoracic compressive myelopathy includes the ICD-9-CM code 336.9.

[For text of items B to H, see M.R.]

I. A comprehensive functional capacity assessment or evaluation (FCE) is ~~a comprehensive and objective assessment of a patient's ability to perform work tasks~~ an individualized examination and evaluation that objectively measures the patient's current level of function and the ability to perform functional or work-related tasks, and it predicts the potential to sustain these tasks over a defined time frame. The components of a ~~functional capacity assessment or evaluation~~ comprehensive FCE include, but are not limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. ~~A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the requested information. Functional capacity assessments and evaluations are performed to determine and report a patient's physical capacities in general or to determine work tolerance for a specific job, task, or work activity.~~

(1) ~~Functional capacity assessment or evaluation~~ A comprehensive FCE is not ~~reimbursable~~ indicated during the period of initial ~~nonoperative care~~ nonsurgical management.

(2) ~~Functional capacity assessment or evaluation~~ After the period of initial nonsurgical management, a comprehensive FCE is ~~reimbursable~~ indicated in either of the following circumstances:

(a) permanent activity restrictions and capabilities must be identified; or

(b) there is a question about the patient's ability to do a specific job.

(3) A comprehensive FCE is not indicated to establish baseline performance before treatment or to evaluate change in performance during a course of treatment.

(4) Only one completed comprehensive FCE is indicated per injury.

(5) Functional tests or physical performance tests done as part of a work conditioning program or work hardening program as provided in part 5221.6600, subpart 2, item D, or in conjunction with active treatment modalities as provided in subpart 4, are not a comprehensive FCE and are not limited by this item.

[For text of item J, see M.R.]

[For text of subp 2, see M.R.]

Subp. 3. **Passive treatment modalities.**

[For text of items A to D, see M.R.]

E. Electrical muscle stimulation includes muscle stimulation, low-volt therapy, sine wave therapy, stimulation of peripheral nerve, galvanic stimulation, TENS, interferential, and microcurrent techniques.

[For text of subitems (1) and (2), see M.R.]

F. Mechanical traction~~:~~ is the therapeutic use of mechanically induced tension created by a pulling force to produce a combination of distraction and gliding to relieve pain and increase flexibility. Mechanical traction may be continuous, static, intermittent, inversion, gravity, or positional. Examples of mechanical traction include power traction, intersegmental motorized mobilization, vertebral axial decompression, autotraction (active), and 90/90.

[For text of subitems (1) and (2), see M.R.]

G. Acupuncture treatments~~. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure~~:

[For text of subitems (1) to (3), see M.R.]

H. Manual therapy includes ~~soft tissue and joint mobilization, therapeutic massage, and~~ manual traction, myofascial release, joint mobilization and manipulation, manual lymphatic drainage, soft-tissue mobilization and manipulation, trigger point therapy, acupressure, muscle stimulation - manual (nonelectrical), and any form of massage:

[For text of subitems (1) to (3), see M.R.]

[For text of items I to K, see M.R.]

[For text of subps 4 to 7, see M.R.]

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only in certain specific situations, as specified in items A to D. The health care provider must provide the insurer with prior notification as required by items B and C, according to part 5221.6050, subpart 9.

[For text of items A to C, see M.R.]

D. The following durable medical equipment is not indicated for home use for any of the thoracic back pain conditions described in subpart 1, item A:

[For text of subitems (1) and (2), see M.R.]

[For text of subp 9, see M.R.]

Subp. 10. **Scheduled and nonscheduled medication.** ~~Prescription of controlled substance medications scheduled under Minnesota Statutes, section 152.02, including, without limitation, narcotics, is indicated only for the treatment of severe acute pain. These medications are not indicated in the treatment of patients with regional thoracic back pain after the first two weeks.~~

~~Patients with radicular pain may require longer periods of treatment.~~

The health care provider must document the rationale for the use of any ~~scheduled~~ medication. Treatment with ~~nonnarcotic~~ medication may be appropriate during any phase of treatment and ~~intermittently after all other treatment has been discontinued~~ must comply with all of the applicable parameters in part 5221.6105. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and the most cost-effective regimen is used.

[For text of subps 11 to 13, see M.R.]

5221.6300 UPPER EXTREMITY DISORDERS.

Subpart 1. **Diagnostic procedures for treatment of upper extremity disorders (UED).** A health care provider shall determine the nature of an upper extremity disorder before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must at each visit assign the patient to the appropriate clinical category according to subitems (1) to (6). The diagnosis must be documented in the medical record. Patients may have multiple disorders requiring assignment to more than one clinical category. This part does not apply to upper extremity conditions due to a visceral, vascular, infectious,

immunological, metabolic, endocrine, systemic neurologic, or neoplastic disease process, fractures, lacerations, amputations, or sprains or strains with complete tissue disruption.

(1) Epicondylitis. This clinical category includes medial epicondylitis and lateral epicondylitis, ICD-9-CM codes 726.31 and 726.32.

(2) Tendonitis of the forearm, wrist, and hand. This clinical category encompasses any inflammation, pain, tenderness, or dysfunction or irritation of a tendon, tendon sheath, tendon insertion, or musculotendinous junction in the upper extremity at or distal to the elbow due to mechanical injury or irritation, including, but not limited to, the diagnoses of tendonitis, tenosynovitis, tendovaginitis, peritendinitis, extensor tendinitis, de Quervain's syndrome, intersection syndrome, flexor tendinitis, and trigger digit, including, but not limited to, ICD-9-CM codes 726.4, ~~726.5,~~ 726.8, 726.9, 726.90, 727, 727.0, 727.00, 727.03, 727.04, 727.05, ~~and~~ 727.09, 727.2, 727.3, 727.4 to 727.49, 727.8 to 727.82, 727.89, and 727.9.

(3) Nerve entrapment syndromes. This clinical category encompasses any compression or entrapment of the radial, ulnar, or median nerves, or any of their branches, including, but not limited to, carpal tunnel syndrome, pronator syndrome, anterior interosseous syndrome, cubital tunnel syndrome, Guyon's canal syndrome, radial tunnel syndrome, posterior interosseous syndrome, and Wartenburg's syndrome, including, but not limited to, ICD-9-CM codes 354, 354.0, 354.1, 354.2, 354.3, 354.8, and 354.9.

(4) Muscle pain syndromes. This clinical category encompasses any painful condition of any of the muscles of the upper extremity, including the muscles responsible for movement of the shoulder and scapula, characterized by pain and stiffness, including, but not limited to, the diagnoses of chronic nontraumatic muscle strain, repetitive strain injury, cervicobrachial syndrome, tension neck syndrome, overuse syndrome, myofascial pain syndrome, myofasciitis, nonspecific myalgia, fibrositis,

fibromyalgia, and fibromyositis, including, but not limited to, ICD-9-CM codes 723.3, 729.0, 729.1, 729.5, 840, 840.3, 840.5, 840.6, 840.8, 840.9, 841, 841.8, 841.9, and 842.

(5) Shoulder impingement syndromes, including tendonitis, bursitis, and related conditions. This clinical category encompasses any inflammation, pain, tenderness, dysfunction, or irritation of a tendon, tendon insertion, tendon sheath, musculotendinous junction, or bursa in the shoulder due to mechanical injury or irritation, including, but not limited to, the diagnoses of impingement syndrome, supraspinatus tendonitis, infraspinatus tendonitis, calcific tendonitis, bicipital tendonitis, subacromial bursitis, subcoracoid bursitis, subdeltoid bursitis, and rotator cuff tendinitis, including, but not limited to, ICD-9-CM codes 726.1 to 726.2, 726.9, 726.90, 727 to 727.01, 727.2, 727.3, 840, 840.4, and 840.6~~, 840.8, and~~ to 840.9.

(6) Traumatic sprains or strains of the upper extremity. This clinical category encompasses an instantaneous or acute injury, as a result of a single precipitating event to the ligaments or the muscles of the upper extremity including, without limitation, ICD-9-CM codes 840 to 842.19. Injuries to muscles as a result of repetitive use, or occurring gradually over time without a single precipitating trauma, are considered muscle pain syndromes under subitem (4). Injuries with complete tissue disruption are not subject to this parameter.

[For text of items B to D, see M.R.]

E. The following diagnostic procedures or tests are not indicated for the diagnosis of ~~upper extremity disorders~~ any of the clinical categories in item A:

[For text of subitems (1) to (3), see M.R.]

[For text of items F to I, see M.R.]

J. A comprehensive functional capacity assessment or evaluation (FCE) is ~~a comprehensive and objective assessment of a patient's ability to perform work tasks~~

an individualized examination and evaluation that objectively measures the patient's current level of function and the ability to perform functional or work-related tasks, and it predicts the potential to sustain these tasks over a defined time frame. The components of a ~~functional capacity assessment or evaluation~~ comprehensive FCE include, but are not limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. ~~A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the required information. Functional capacity assessments and evaluations are performed to determine and report a patient's physical capacities in general or to determine work tolerance for a specific job, task, or work activity.~~

(1) ~~Functional capacity assessment or evaluation~~ A comprehensive FCE is not indicated during the ~~first 12 weeks~~ period of initial nonsurgical ~~treatment~~ management.

(2) ~~Functional capacity assessment or evaluation~~ After the period of initial nonsurgical management, comprehensive FCE is indicated ~~after the first 12 weeks of care~~ in either of the following circumstances:

(a) permanent activity restrictions and capabilities must be identified; or

(b) there is a question about the patient's ability to ~~return to~~ do a specific job.

(3) A ~~functional capacity evaluation~~ comprehensive FCE is not ~~appropriate~~ indicated to establish baseline performance before treatment~~,~~ or ~~for subsequent assessments,~~ to evaluate change in performance during ~~or after~~ a course of treatment.

(4) Only one completed ~~functional capacity evaluation~~ comprehensive FCE is indicated per injury.

(5) Functional tests or physical performance tests done as part of a work conditioning program or work hardening program as provided in part 5221.6600, subpart 2, item D, or in conjunction with active treatment modalities as provided in subpart 4, are not a comprehensive FCE and are not limited by this item.

[For text of item K, see M.R.]

[For text of subp 2, see M.R.]

Subp. 3. **Passive treatment modalities.**

[For text of items A to D, see M.R.]

E. Electrical muscle stimulation includes muscle stimulation, low-volt therapy, sine wave therapy, stimulation of peripheral nerve, galvanic stimulation, TENS, interferential, and microcurrent techniques.

[For text of subitems (1) and (2), see M.R.]

F. Acupuncture treatments~~. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure~~:

[For text of subitems (1) to (3), see M.R.]

[For text of item G, see M.R.]

H. Manual therapy includes ~~soft tissue and joint mobilization and therapeutic massage~~ manual traction, myofascial release, joint mobilization and manipulation, manual lymphatic drainage, soft-tissue mobilization and manipulation, trigger point therapy, acupressure, muscle stimulation - manual (nonelectrical), and any form of massage:

[For text of subitems (1) to (3), see M.R.]

[For text of items I and J, see M.R.]

[For text of subps 4 to 7, see M.R.]

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only in the situations specified in items A to D. The health care provider must provide the insurer with prior notification as required in items B and C and part 5221.6050, subpart 9.

[For text of items A to C, see M.R.]

D. The following durable medical equipment is not indicated for home use for the upper extremity disorders ~~specified~~ described in ~~subparts 11 to 16~~ subpart 1, item A:

[For text of subitems (1) and (2), see M.R.]

[For text of subp 9, see M.R.]

Subp. 10. **Scheduled and nonscheduled medication.** ~~Prescription of controlled substance medications scheduled under Minnesota Statutes, section 152.02, including, without limitation, narcotics, is indicated only for the treatment of severe acute pain. Therefore, these medications are not routinely indicated in the treatment of patients with upper extremity disorders.~~ The health care provider must document the rationale for the use of any ~~scheduled~~ medication. Treatment with ~~nonscheduled~~ medication may be appropriate during any phase of treatment and ~~intermittently after all other treatment has been discontinued~~ must comply with all of the applicable parameters in part 5221.6105. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and the most cost-effective regimen is used.

[For text of subps 11 to 16, see M.R.]

5221.6305 COMPLEX REGIONAL PAIN SYNDROME (CRPS); REFLEX SYMPATHETIC DYSTROPHY; AND CAUSALGIA OF THE UPPER AND LOWER EXTREMITIES.

Subpart 1. **Scope.**

A. This clinical category encompasses:

(1) any condition diagnosed as complex regional pain syndrome, reflex sympathetic dystrophy, or causalgia, or any other condition included in ICD-9-CM codes 337.20, 337.21, 337.22, 337.29, 337.9, 354.4, 355.71, 355.9, or 733.7; or

(2) any condition of the upper or lower extremity characterized by concurrent presence in the involved extremity of five of the following conditions: edema; local skin color change of red or purple; osteoporosis in underlying bony structures demonstrated by radiograph; local dyshidrosis; local abnormality of skin temperature regulation; reduced passive range of motion in contiguous joints; local alteration of skin texture of smooth or shiny; or typical findings of reflex sympathetic dystrophy on bone scan~~. This clinical category includes, but is not limited to, the diagnoses of reflex sympathetic dystrophy, causalgia, Sudek's atrophy, algoneurodystrophy, and shoulder-hand syndrome, and including, but not limited to, ICD-9-CM codes 337.9, 354.4, and 733.7.~~; or

(3) any condition of the upper or lower extremity that develops after trauma or nerve injury and is characterized by continuing pain, allodynia, or hyperalgesia that is nonanatomic in distribution and disproportionate to the original injury and to stimulation, and the patient has or has had edema, vasomotor abnormality, or sudomotor abnormality on examination, and there is no other explanation for the degree of pain and dysfunction.

[For text of items B and C, see M.R.]

Subp. 2. **Initial nonsurgical management.** Initial nonsurgical management is appropriate for all patients with reflex sympathetic dystrophy and must be the first phase of treatment. Any course or program of initial nonsurgical management is limited to the modalities specified in items A to D.

A. Therapeutic injection modalities. The only injections allowed for reflex sympathetic dystrophy are sympathetic block, intravenous infusion of steroids or sympatholytics, or epidural block.

(1) Unless medically contraindicated, sympathetic blocks or the intravenous infusion of steroids or sympatholytics must be used if reflex sympathetic dystrophy has continued for four weeks and the employee remains disabled as a result of the reflex sympathetic dystrophy.

(a) Time for treatment response: within 30 minutes.

(b) Maximum treatment frequency: can repeat an injection ~~at a site~~ to a limb if there was a positive response to the first injection. If subsequent injections demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections must be discontinued. No more than three injections to different ~~sites~~ limbs are reimbursable per patient visit.

[For text of unit (c), see M.R.]

[For text of subitem (2), see M.R.]

[For text of items B and C, see M.R.]

D. ~~Oral medications may be indicated in accordance with accepted medical practice~~ The health care provider must document the rationale for the use of any medication. Treatment with medication may be appropriate during any phase of treatment and must comply with all of the applicable parameters in part 5221.6105. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and that the most cost-effective regimen is used.

[For text of subps 3 and 4, see M.R.]